




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 2 1991

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

MEMORANDUM

SUBJECT: Policy Towards Owners of Residential Property at
Superfund Sites

FROM: Bruce M. Diamond, Director 
Office of Waste Programs Enforcement

TO: Don R. Clay
Assistant Administrator

Attached for your signature is the "Policy Towards Owners of Residential Property at Superfund Sites."

Several months ago we received a number of inquiries about EPA's enforcement policy towards residential homeowners who live on areas designated as a Superfund site (e.g., ground water contamination). People wanted to know whether EPA pursues residential homeowners (or their lenders) for payment of response costs or performance of response actions. We indicated that our policy was not to pursue residential homeowners unless they were responsible for the contamination found at the Superfund site.

This policy puts in writing what has been, unofficially, the Agency's practice. Under this policy, in the exercise of our enforcement discretion, the Agency will not pursue residential homeowners if they use the residential property exclusively for residential purposes. This policy does not apply where the residential homeowner's activities lead to a release or threat of release of a hazardous substance, resulting in the taking of a response action. In addition, the residential homeowner must provide access to the Agency to implement a response action; agree to abide by institutional controls placed on the property (e.g., excavation restrictions to assure that contamination does not spread or that the remedy implemented is not disturbed); and comply with other CERCLA obligations (e.g., provide information, if requested).

This policy was developed jointly by the Office of Solid Waste and Emergency Response and Office of Enforcement (OE). The policy was developed on an expedited basis. Two drafts of the policy were sent to the Regions, Office of General Counsel (OGC) and the Department of Justice (DOJ). We received written comments from every Region, as well as OGC and DOJ. We held

several conference calls to discuss substantive issues. On the whole this policy has been well received by all parties. Many of the Regions believe that this policy will be instrumental in their efforts to obtain voluntary access and compliance with planned response actions. This policy, along with the lender liability rule, should go a long way to alleviating residential homeowner and lending institution concerns about EPA taking enforcement actions against them. Please note that the policy does not affect possible private party actions against residential homeowners.

This signature package is being reviewed concurrently at OE. After we sign the document it will be taken to OE for signature. OGC has concurred on the final package. DOJ was sent a complimentary copy to review.

Attachment